

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
GREAT FALLS DIVISION

TOBY KITTRELL,

Plaintiff,

vs.

PAT MCTIGHE, BRIAN MORHART,  
SERGEANT MARQUEZ, CASE  
MANAGER CLARK, CHIEF LONG,  
UNIT MANAGER MERTZ,  
ASSISTANT WARDEN NELSON,  
and SGT. TIGHE,

Defendants.

CV 19-88-GF-BMM-JTJ

ORDER

United States Magistrate Judge John Johnston entered his Findings and Recommendations in this case on October 2, 2020 (Doc. 22). Judge Johnston recommended that Defendants' Motion to Dismiss (Doc. 20) should be GRANTED and this matter be DISMISSED under Fed. R. Civ. P. 41(b), that the Clerk of Court should be directed to close this matter and enter judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure, and that the Clerk of Court should be directed to have the docket reflect that the Court certifies pursuant to Rule 24(a)(3)(A) of the Federal Rules of Appellate Procedure that any appeal of this decision would not be taken in good faith.

Neither party filed objections to the Findings and Recommendations. The parties have waived the right to de novo review thereof. 28 U.S.C. § 636(b)(1)(C). Absent objection, this Court reviews findings and recommendations for clear error. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted). Reviewing for clear error and finding none,

**IT IS ORDERED** that Judge Johnston’s Findings and Recommendations (Doc. 22) are **ADOPTED IN FULL**. CoreCivic Defendants’ Motion to Dismiss (Doc. 20) should be GRANTED and this matter should be DISMISSED pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

A handwritten signature in blue ink that reads "Brian Morris". The signature is fluid and cursive, with the first name "Brian" and last name "Morris" clearly distinguishable.

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Brian Morris, Chief District Judge  
United States District Court